**THE HONOURABLE SRI JUSTICE V. ESWARAIAH**

**WRIT PETITION No.14478 OF 2006**

**DATED: -03-2007**

**BETWEEN**

Venkata Satyanarayana,
S/o. Sri Sundaram,
R/o. 44-15-119, Lenin Nagar,
Gunadala, Vijayawada.

...PETITIONER

**AND**

The Commissioner of Police,
Vijayawada and two others.

...RESPONDENTS

**ORDER:**

Sri B. Adinarayana Rao, learned counsel for the petitioner submits that the petitioner was branded as one of the followers of Devineni Rajasekhar, MLA, from Kankipadu Assembly Constituency and at the behest of the rival politicians of the said Rajasekhar, petitioner was implicated in several criminal cases along with the said Rajasekhar. A rowdy sheet was opened against the petitioner in 1992. The petitioner was elected as Corporator from Ward No.32 of Vijayawada Municipal Corporation in 1995 and taking advantage of false criminal cases lodged against the petitioner, the rowdy sheet was continued. Thereafter the petitioner got re-elected as Corporator during 2000-05 and also became the Deputy Mayor of the Corporation. The petitioner was elected again as Corporator in 2005 and is continuing as such. Several criminal cases filed against the petitioner ended in acquittal but the respondents never bothered to review the case of the petitioner to close

down the rowdy sheet despite the Police Standing Orders specifically providing the same. The Police Standing Order 742 (PSO 742) provides for opening of rowdy sheet against the persons classified therein under the orders of the Superintendent of Police or the Sub-Divisional Police Officer. He further submits that none of the conditions mentioned in PSO 742 are satisfied for continuance of the rowdy sheet opened against the petitioner.

The petitioner filed a representation dated 08.04.2006 before the Commissioner of Police, Vijayawada to review his case and discontinue the rowdy sheet, but no action has been taken on the said representation for discontinuance of the rowdy sheet as provided under PSO 735. The petitioner, therefore, submits that continuance of the rowdy sheet opened on 24.11.1992 is illegal, arbitrary, against PSO 742 and unconstitutional and consequently seeks a direction to the respondents to quash the rowdy sheet.

2. The Commissioner of Police, Vijayawada City, filed a counter stating that the petitioner – Venkata Satyanarayana figured as accused in the following cases:

1. Cr.No.150/89 under Sections 147, 148, 427, 324, 302 read with 149 IPC of Satyanarayanapuram P.S. The witnesses in the above case turned hostile due to fear of the accused. The above case ended in acquittal vide S.C.No.94 of 1993 on 05.01.1998.
2. Cr.No.275/89 under Section 302 IPC of Patamata PS.

   The witnesses in the above case turned hostile due to fear of the accused. The above case ended in acquittal.
3. Cr.No.316/89 under Section 324 IPC of Machavaram PS.

   The witnesses in the above case turned hostile due to fear of the accused. The above case ended in acquittal.
4. Cr.No.317/89 under Section 353 IPC and 27 of Arms Act of Machavaram PS. The witnesses in the above case turned hostile due to fear of the accused. The above case ended in acquittal.
5. Cr.No.277-A/90 under Sections 143 and 353 read with 149 IPC of

Machavaram PS. The witnesses in the above case turned hostile due to fear of the accused. The above case ended in acquittal on 24.8.1998.

6. Cr.No.278/90 under Sections 147, 427 and 341 IPC and 17(1) Crl. Amendment Act of Machavaram PS. The witnesses in the above case turned hostile due to fear of the accused.

   The above case ended in acquittal vide CC No.677 of 1994 on 24.8.1998.

7. Cr.No.279/90 under Sections 147, 341 and 427 IPC and 17(1) Crl. Amendment Act of Machavaram PS. The witnesses in the above case turned hostile due to fear of the accused.

   The above case ended in acquittal vide CC No.249/93 on 24.8.1998.

8. Cr.No.280/90 under Sections 147, 427 and 341 IPC and 17(1) Crl. Amendment Act of Machavaram PS. The witnesses in the above case turned hostile due to fear of the accused.

   The above case ended in acquittal vide CC No.250/93 on 24.8.1998.

9. Cr.No.283/90 under Sections 147, 148, 341, 427, 436 read with 149 IPC of Machavaram PS. The witnesses in the above case turned hostile due to fear of the accused. The above case ended in acquittal on 05.10.1999.

10. Cr.No.152/92 under Sections 147, 148 and 303 IPC of Patamata PS.

    The witnesses in the above case turned hostile due to fear of the accused. The above case ended in acquittal vide SC No.97/95 on 08.06.2000.

11. Cr.No.42/94 under section 332 IPC of Machavaram PS.

    The witnesses in the above case turned hostile due to fear of the accused. The above case ended in acquittal vide

    CC No.655/94 on 21.02.1995.

12. Cr.No.161/95 under Sections 147, 148, 324, 427 read with 149 IPC of

Machavaram PS. The witnesses in the above case turned hostile due to fear of the accused. The above case ended in acquittal vide CC No.92/96 on 20.10.99.

13. Cr.No.241/95 under Sections 143, 323 and 506 read with 149 IPC of Suryaraopet PS. The above case forcibly ended in compromise vide C.C.No.297/97 on 26.03.1998.

14. Cr.No.51/96 under Sections 323, 448, 452 and 506 read with 34 IPC of Suryaraopet PS. The witnesses in the above case turned hostile due to fear of the accused. The above case ended in acquittal vide CC No.403/97 on 18.05.1998.

15. Cr.No.34/96 under Section 302 IPC of Bangarupalem PS, Chitttoor district. The witnesses in the above case turned hostile due to fear of the accused. The above case ended in acquittal on 28.01.1998.

16. Cr.No.102/96 under Section 302 IPC of Nandigama PS, Krishna District. The witnesses in the above case turned hostile due to fear of the accused. The above case ended in acquittal on 19.12.2000.

17. Cr.No.228/99 under Sections 324 and 506 read with 34 IPC of Nunna Rural PS. The above case forcibly ended in compromise vide CC No.120/2000 on 01.11.2001.

18. Cr.No.322/98 under Sections 143, 153, 188, 189, 290, 427, and 341 read with 149 IPC of Patamata PS. The case was withdrawal for prosecution vide CC No.880/98 on 12.8.05.

19. Cr.No.59/2000 under Section 177(H) and 188 IPC of Suryaraopet PS. The above case ended in acquittal vide
    CC No.395/2000 on 13.06.2001.

20. Cr.No.363/01 under Section 151 CPC of Machavaram PS.
    In this case he was arrested under Preventive measures while he was designing to commit a cognizable offence on 15.07.2001.

21. Cr.No.154/2004 under Section 110 Cr.P.C. of Machavaram PS. In this

case he was bound over for good behaviour vide MC No.6/04.

22. Cr.No.284/2004 under Sections 384 and 506 read with 34 IPC of Suryaraopet PS. The witnesses in the above case turned hostile due to fear of the accused. The above case ended in acquittal vide CC No.136/05 on 07.04.2005.

23. Cr.No.232/05 under Section 110 Cr.P.C. of Machavaram PS. In this case he was bound over for good behaviour for one year vide MC No.16/05 on 12.9.05.

The petitioner was acquitted in the above cases either because the witnesses turned hostile or for the reasons mentioned against each of the cases.

3. A perusal of the aforementioned cases go to show that cases from Sl.No.1 to 12, 14 to 16, 19 and 22 ended in acquittal because the witnesses turned hostile. The cases at Sl.No.1, 2, 10, 15 and 16 relate to the offence under Section 302 of the Indian Penal Code, 1860 i.e. for committing murder apart from other offences. The case at Sl.No.13 and 17 were compromised and the case at Sl.No.18 was withdrawn. The cases at Sl.No.21 and 23 relate to bound over proceedings for good behaviour for a period of one year vide M.C.No.4 of 2004 and M.C.No.16 of 2005 which were registered on 12.09.2005.

4. It is stated that the rowdy sheet opened in 1992 in Machavaram (VIII Town) Police Station bearing No.4 of 19992 against the petitioner is being continued from time to time. The petitioner is a follower of
D. Rajasekhar alias Nehru, MLA and he is a Corporator at present and well known to public through his anti-social activities. The petitioner frequently used to involve himself in civil settlements and for those settlements he used to threaten people. The people are very much scared of petitioner and though he is continuing his illegal activities, nobody is coming forward to prefer complaints against him. In 2004 he was involved in a case in S R Pet

Police Station in Cr.No.248 of 2004 in which he forcibly occupied a house by violence and the said case also ended in acquittal because the witnesses turned hostile due to fear of him. The Lokayukta took up the case vide complaint No.994/2004/B1 and directed the Commissioner of Police to file periodical reports in the said case and other rowdy activities of the petitioner in Vijayawada. It is stated that to keep a close watch on the activities of the petitioner the rowdy sheet is being continued as there is likelihood of breach of peace, which ultimately may result in law and order problems.

5. In order to curb his criminal activities and to keep a watchful eye on his activities and shady movements, the rowdy sheet was opened in terms of PSO 601 (A) of the Andhra Pradesh Police Manual Volume - II, according to which persons who habitually commit, attempt to commit or abet the commission of offences involving breach of peach, disturbance to public order and security,
a rowdy sheet should be opened for such a person and his movements and activities are to be watched. It is stated that such action of the police in opening and continuing the rowdy sheet is having a good effect to control the crime. It is stated that unless a rowdy sheet is maintained against the petitioner in the police records it is not possible to conduct frequent checks on him and to keep record of his activities.

6. As per PSO 601 (B) the persons who bound over under Sections 106, 107, 108 (1) (i) and 110 (e) and (g) of the Code of Criminal Procedure, 1973, should be classified as rowdies and history sheets should be opened for them with the orders of the SP/DCP and ACP/SDPO. The rowdy sheet maintained for the petitioner is in the larger interest of the public and to maintain law and order effectively, especially in view of the fact that the petitioner is indulging in private settlements taking advantage of his position in the ruling political party and as Corporator. The representation of the petitioner dated 08.04.2006 to discontinue the rowdy sheet was rejected.

7. Though the petitioner stated in Para 6 of the writ affidavit that his representation dated 08.04.2006 filed before the first respondent to review his case and to discontinue the rowdy sheet was not considered, it is stated in the counter affidavit that the said representation was considered and rejected, but the petitioner has not questioned the said rejection orders.

8. Keeping in view the various provisions relating to criminal law the Police Standing Orders have been codified in the Andhra Pradesh Police Manual consisting of Volumes I & II. Chapter 33 of volume II contains the standing orders from 586 to 610. Under Standing Order 596-1 the history sheets shall be opened automatically at the time of conviction against the persons convicted for lifetime, professional prisoners, members of organized crime syndicates and gangs, drug traffickers and smugglers; persons once convicted for the offence under Sections 395 to 402 and twice convicted for the offences under Sections 75, 392 to 394; once convicted for illicit distillation, twice for housebreaking, once for trafficking women, girls and children;

thrice for theft; twice for cheating, forgery for gain, misappropriation and breach of trust – if individuals; once if organized involving public funds, twice bound over under Section 109 Cr.P.C and once bound over under Section 110 Cr.P.C. The history sheets shall be retained for two years after release from jail. The persons convicted or bound over as above will be styled as "Known Depredators". Under standing order 596-3 history sheets should be opened for habitual offenders.

The surveillance of the police is with a view to ensure their compliance of the rules and to watch if they are reverting to crime.

Under standing order 597 the history sheets should be in the form prescribed containing such particulars, as prescribed and good and bad actions of the history-sheeted person have to be periodically entered. The object of surveillance is to prevent commission of crime and also as to make

sure whether the person has taken to peaceful life and has become a law-abiding citizen. To achieve this objective it should therefore be necessary that the information gathered is thorough, impartial and not influenced by any extraneous factors.

A person who is making efforts to lead an honest life and break from the past should be helped to remain so. The police should handle this carefully in such a manner as not to frustrate his attempts at living an honest life. Under standing order 599 the retention of a history sheet shall be reviewed after two years of registration and if after two years the retention of history sheet is considered necessary, the orders of SDPO must be taken for the extension, in the first instance up to the end of next December and for further annual extension from January to December every year. Therefore, once history sheet is opened it requires to be reviewed every two years either to continue or discontinue the history sheet. The history sheet shall be closed by the definite orders of a SDPO/ACP.

9. The opening of a rowdy sheet is different and distinct from opening of a history sheet. The rowdy sheet is to be opened under the orders of SP/DCP and ACP/SDPO. Under standing order 601 rowdies means persons who habitually commit, attempt to commit or abet the commission of, offences involving a breach of peace, disturbance to public order and security; persons bound over under Sections 106,107, 108 (1) (i) and 110 (e) and (g) of Cr.P.C.; persons who have been convicted more than once in two consecutive years under Sections 59 and 70 of the Hyderabad City Police Act or under Section 3, Clause 12, of the AP Towns Nuisances Act and persons who habitually tease women and girls and pass indecent remarks.

The rowdy sheets for the rowdies residing in one Police Station are but found frequenting the other Police Station area can be maintained at all such police stations. Persons who intimidate by threats or use of physical violence or other unlawful means to part with movable and immovable properties or in the habit of collecting money by extortion from shopkeepers, trades and

other residents. Persons who incite and instigate communal/caste or political riots. Persons detained under the "AP Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land-Grabbers Act, 1986" for a period of six month or more. Persons, who are convicted for offences under the Representative of the Peoples' Act for rigging and carrying away ballot paper, boxes and other polling material.

The period of retention of history sheets of suspects/rowdies shall be continued from the date of registration up to the end of December and under the orders of the Gazetted Officer it can be discontinued or retained for further period. Merely because a suspect/rowdy, having a history sheet, is not figuring as accused in the previous 5 years after the last case in which he was involved,

it should not preclude the SP/DCP/CP to continue his history sheet if SP/DCP/CP is of the considered view that his activities are prejudicial to the maintenance of public order or one affecting peace and tranquility in the area or the victims are not coming forward to give complaint against him on account of threat from him.

10. A perusal of standing orders 596 to 601 relating to opening of history sheet and rowdy sheet, go to show that opening of rowdy sheet in facts and circumstances as stated under Standing Order 596 is automatic and once the history sheet is opened it continues for two years but after two years SDPO/ACP shall review the case and take a decision either to discontinue the history sheet or to extend the history sheet year to year. Whereas the rowdy sheet opened under Standing Order 601 also requires to be reviewed. No doubt, this Court and the Apex Court held that habitual offender means a person who has committed more than one offence and the history sheet as well as rowdy sheet can be opened against a habitual offender.

11. In the instant case, cases have been registered against the petitioner punishable with life, which ended in acquittal, but the fact remain that two

cases relating to bound over proceedings under Section 110 Cr.P.C. have been registered against the petitioner; therefore, history sheet can be opened under Standing Order 596-1 and the rowdy sheet can also be opened under Standing Order 601-B. The cases at Sl.Nos.21 and 23 of the counter go to show that the petitioner was bound over for good behaviour for a period of one year vide M.C.Nos.6 of 2004 and 16 of 2005 dated 12.09.2005 relating to Cr.Nos.154 of 2004 and 232 of 2005 respectively for the offence under Section 110 Cr.P.C. The two years period in the said crimes for review of the history sheet would expire on 12.09.2007. Therefore, I am of the opinion that continuance of the rowdy sheet against the petitioner is not illegal or against any of the provisions of the police standing orders.

I am also of the opinion that merely because the bound over period of one year is over the petitioner is not entitled for automatic closure of history sheet/rowdy sheet. In respect of the case where there is conviction, a rowdy sheet can be continued even after the period of sentence is over. The bound over proceedings are as good as qualified conviction binding over for good behaviour, therefore, it cannot be said that immediately after bound over period is over, the history sheet/rowdy sheet is deemed to be discontinued. However, if the rowdy sheet once opened is not reviewed after two years it is open for the petitioner either to make a representation or approach before this Court challenging the action of the respondents in continuing the rowdy sheet, but under Standing Order 599-1 the retention of History sheet shall be considered after two years and it is open for the SDPO to take a decision either to extend it or not year to year. As a number of cases were registered against the petitioner, which includes five murder cases and several other cases including two bound over cases, I am of the opinion that the petitioner is not entitled for the relief sought in the writ petition.

The writ petition is accordingly dismissed. There shall be no order as to costs.

_____

V. ESWARAIAH, J

March , 2007
DSK